

PUBLISHED IN THE WICHITA EAGLE ON MARCH 30, 2012

ORDINANCE NO.49-248

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE WICHITA-VALLEY CENTER FLOOD CONTROL LEVEE CERTIFICATION AND REHABILITATION PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the rehabilitation and certification of the Wichita-Valley Center flood control levee project in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

Lot 15, except the East 10 feet thereof, and all of Lots 16 and 17, Block A, Sullivan Dam Addition, Sedgwick County, Kansas, EXCEPT that part taken in Condemnation Case A-39338.

Subject property contains 2,945.3 square feet, or 0.068 acres

Permanent easements for floodway right of way, public utilities and related uses in and to the following-described tracts, to-wit:

A portion of Lot 40, in Broadway Heights, an Addition to Wichita, Kansas, Sedgwick County, Kansas, described more particularly as commencing at the southeast corner of said Lot 40; thence N00°56'01"W (assumed), along the east line of said Lot 40, 179.00

feet to the point of beginning; thence $S77^{\circ}37'14''W$, 102.00 feet to a point on the west line of said Lot 40, and 158.00 feet north of the southwest corner of said lot 40; thence $N00^{\circ}56'01''W$, along the west line of said Lot 40, 10.44 feet to a point on the south line of the Chisholm Creek Diversion Condemnation Case A-41501; thence northeasterly along the south line of said Chisholm Creek Diversion said line being a curve to the left, having a degree of curve of $7^{\circ}42.7'$, having a calculated radius of 742.98 feet, an arc length of 91.61 feet, a chord length of 91.55 feet and a chord bearing of $N72^{\circ}03'08''E$, to the PT of said curve; thence $N67^{\circ}37'51''E$, along the south line of said Chisholm Creek Diversion, 13.36 feet to a point on the east line of said Lot 40; thence $S00^{\circ}56'30''E$, along the east line of said Lot 40, 21.87 feet to the point of beginning, containing 1,481.6 square feet, or 0.034 acres and

A portion of Lot 5, Block 6, Ark Valley Park Addition, Wichita, Kansas, Sedgwick County, Kansas, described as beginning at the northeast corner of said Lot 5; thence $S05^{\circ}59'40''W$ (assumed), along the east line of said Lot 5, 81.70 feet to a deflection point in the east line of said Lot 5; thence $N84^{\circ}00'20''W$, along the west line of said Lot 5, 5.00 feet; thence $N05^{\circ}59'40''E$, parallel with the east line of said Lot 5, 81.12 feet to a point in the north line of said Lot 5; thence $N89^{\circ}21'40''E$, along the north line of said Lot 5, 5.03 feet to the point of beginning containing 407.0 square feet or 0.009 acres and

A portion of Lot 5, Block 6, Ark Valley Park Addition, Wichita, Kansas, Sedgwick County, Kansas, described as beginning at the southeast corner of said Lot 5; thence $S89^{\circ}22'16''W$ (assumed), along the south line of said Lot 5, 3.66 feet; thence $N13^{\circ}13'39''E$, 67.73 feet to a deflection point in the east line of said Lot 5; thence southerly along the east line of said Lot 5, and the west line of the Chisholm Creek Diversion Condemnation Case A-41501, said line being a non-tangent curve to the right having a degree of curve of $08^{\circ}44.90'$, having a calculated radius of 654.93 feet, an arc length of 66.98 feet, a chord length of 66.95 feet, and a chord bearing of $S10^{\circ}11'03''W$, to the point of beginning containing 158.6 square feet or 0.004 acres and

A portion of Reserve "A" Suburban Acres, Wichita, Kansas, Sedgwick County, Kansas, except that portion condemned for flood control purposes in Chisholm Creek Diversion Condemnation District Court Case A-41035, more particularly described as commencing at the northwest corner of said Reserve "A"; thence $N89^{\circ}22'00''E$ (assumed), along the north line of said Reserve "A", 213.06 feet to the point of beginning; thence continue $N89^{\circ}22'00''E$, along the north line of said Reserve "A", 3.66 feet, more or less, to a point on the west line of said Chisholm Creek Diversion; thence southwesterly along the west line of said Chisholm Creek Diversion, said line being a curve to the right, having a degree of curve of $08^{\circ}44.9'$, having a calculated radius of 654.93 feet, an arc length of 83.99 feet, a chord length of 83.93 feet, and a chord bearing of $S15^{\circ}39'18''W$; thence $N13^{\circ}13'43''E$, 82.98 feet to the point of beginning containing 222.8 square feet or 0.005 acres and

A portion of Reserve "A" Suburban Acres, Wichita, Kansas, Sedgwick County, Kansas, except that portion condemned for flood control purposes in Chisholm Creek Diversion Condemnation District Court Case A-41035, more particularly described as commencing at the northwest corner of said Reserve "A"; thence $S26^{\circ}50'46''E$ (assumed), along the west line of said Reserve "A", 188.31 feet, to the point of curvature of a curve in the west line of said Reserve "A", thence southeasterly along the west line of said Reserve "A"; being a curve to the right, having a radius of 174.37 feet,

an arc length of 33.92 feet, a chord length of 33.86 feet, and a chord bearing of S21°16'25"E, to the point of beginning; thence N72°42'00"E, 50.87 feet to a point on the west line of said Chisholm Creek Diversion; thence southwesterly along the west line of said Chisholm Creek Diversion, said line being a curve to the right having a degree of curve of 08°44.9', having a calculated radius of 654.93 feet, an arc length of 77.48 feet, a chord length of 77.44 feet, and a chord bearing of S32°55'07"W, to a point on the west line of said Reserve "A"; thence northwesterly along the west line of said Reserve "A", said line being a curve to the left, having a radius of 174.37 feet, an arc length of 50.47 feet, a chord length of 50.30 feet, and a chord bearing of N07°24'32"W, to the point of beginning containing 1,258.2 square feet or 0.029 acres and

A tract in the NE 1/4 of Sec. 29, Twp. 26-S, R-1-E, described as commencing at the intersection of the west line of New Lawrence Ave. Rd. (as recorded in Deed Book 444, Page 609) and the north line of the south 30 acres of that part of said NE 1/4, lying west of the A.T. & S.F. Railroad right-of-way (being the north line of Maggie E. McDermid Land) said point being the N.E. Corner of Lot 1, Farmer's Addition, Wichita, Sedgwick County, Kansas; thence northerly along the west line of said New Lawrence Ave. Rd., 634.62 feet, to a point on the north line of the South 68 Acres of said NE. 1/4; thence continue northerly along the west line of said New Lawrence Ave. Rd., 66.77 feet to a deflection point in the west line of said New Lawrence Ave. Rd.; thence S89°21'40"W, along a segment of the west line of said New Lawrence Ave. Rd., 55.45 feet to the point of beginning; thence continue S89°21'40"W, 8.50 feet to a point on the east line of the Chisholm Creek Diversion Condemnation Case A-41035; thence southerly along the east line of said Chisholm Creek Diversion, said line being a curve to the right, having a degree of curve of 00°59.48' and having a calculated radius of 5,779.67 feet, an arc length of 66.85 feet, a chord length of 66.85 feet, and a chord bearing of S02°29'01"W, to a point on the north line of the south 68 acres of said NE. 1/4; thence N89°21'40"E, along the north line of the south 68 acres of said NE. 1/4, 8.47 feet; thence N02°30'36"E, 66.85 feet to the point of beginning containing 562.1 square feet or 0.013 acres and

A portion of the North 12.65 acres of Lot 5 in the Northwest Quarter Section 29, Township 26 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas, described as commencing at the southeast corner of said North 12.65 acres, said point being S00°45'52"E (assumed), 667.97 feet from the northeast corner of said Northwest Quarter; thence S89°12'32"W, along the south line of said North 12.65 acres, 1013.88 for a point of beginning; thence continue S89°12'32"W, along the south line of said North 12.65 acres, 10.00 feet to a point in the east line of the Chisholm Creek Diversion Condemnation Case A-39338; thence N01°04'25"W, along a segment of the east line of said Chisholm Creek Diversion, 167.51 feet, to a deflection corner in said east line; thence S81°38'05"W, along a segment of the east line said Chisholm Creek Diversion, 308.91 feet to a deflection corner in said east line, said deflection corner also being a point on the west line of said Lot 5; thence N00°53'46"W, along a segment of the east line of said Chisholm Creek Diversion, and along the west line of said Lot 5, 29.22 feet, to a deflection corner in said east line of said Chisholm Creek Diversion; thence N81°37'08"E, along a segment of the east line of said Chisholm Creek Diversion, 171.34 feet to a deflection corner in said east line; thence N50°53'08"E, along a segment of the east line of said Chisholm Creek Diversion, 52.44 feet to a deflection corner in said east line; thence N01°02'52"W, along a segment of the east line of said Chisholm Creek Diversion, 21.64 feet to a deflection corner in said east line; thence N88°21'08"E, along a segment of the east line of said Chisholm Creek Diversion, 21.84

feet to a deflection corner in said east line; thence S05°07'52"E, along a segment of the east line of said Chisholm Creek Diversion, 49.30 feet to a deflection corner in said east line; thence N65°01'08"E, along a segment of the east line of said Chisholm Creek Diversion, 66.16 feet to a deflection corner in said east line; thence N01°32'10"E, along a segment of the east line of said Chisholm Creek Diversion, 74.18 feet; thence N87°59'07"E, 5.26 feet; thence S02°07'25"E, 51.14 feet; thence S11°27'26"E, 32.96 feet; thence N89°44'03"E, 10.51 feet; thence S00°00'00"W, 53.50 feet; thence S01°09'22"W, 148.30 feet to the point of beginning containing 14,570.7 square feet, or 0.334 Acres and

A tract of land in the Southwest Quarter of Section 20 and the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows: Commencing at a point on the South line of said Section 20, 118.22 feet east of the Southwest corner of said Section 20; thence N 39°51'00" E for a distance of 165.53 feet to the Point of Beginning; thence N 20°52'00" W for a distance of 22.62 feet; thence N 68°59'00" E for a distance of 68.44 feet; thence N 83°37'00" E for a distance of 175.00 feet; thence S 71°28'00" E for a distance of 247.72 feet to a point of curvature; thence along a 12°51.02' curve to the right described by the following chord bearings and distances: S 68°12'00" E for a distance of 50.98 feet; thence S 58°30'00" E for a distance of 99.79 feet; thence S 45°39'00" E for a distance of 59.22 feet; said point being calculated at 59.73 feet, to the South line of said Section 20, to a point described as being 772.88 feet east of the Southwest corner of said Section 20, said point is calculated at a distance of 863.72 feet; thence continuing along a 12°51.02' curve to the right described by the following chord bearings and distances; S 45°39'00" E for a distance of 40.57 feet; thence S 32°48'00" E for a distance of 99.79 feet; thence S 19°57'00" E for a distance of 99.79 feet thence S3°35'00' E for a distance of 153.91 feet to a point of tangency; thence S 6°21'00" W for a distance of 69.66 feet; thence S 2°00'00" E for a distance of 130.11 feet per recorded tract numbers 73(A), 73(B), and 76 of the Chisholm Creek Diversion, Condemnation Case A-39338; thence S 2°00'00" E for a distance of 19.60 feet to the intersection of a 15' offset of the centerline of the railroad tracks; thence on a curve to the left a length of 35.79 feet having a radius of 545.47 feet with a chord bearing of S 66°15'17" W for a distance of 35.78 feet; thence N00°21'47"E, 242.41 feet; thence N02°11'00"W, 123.01 feet; thence N19°33'45"W, 90.58 feet; thence N26°24'08"W, 146.61 feet; thence N47°23'58"W, 91.22 feet; thence N67°57'22"W, 137.53 feet; thence N73°37'26"W, 148.71 feet; thence N81°15'13"W, 168.47 feet; thence S68°00'01"W, 39.26 feet; thence S68°37'47"W, 107.88 feet to the point of beginning containing 26,991.7 Square Feet, or 0.620 Acres and

A tract of land in Government Lot 6, in the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas, more particularly described as commencing at the northwest corner of said Section 29; thence S00°19'E, 1334.02 feet; thence N89°47'E, 874.23 feet, to the point of beginning; thence N06°21'E, 338.20 feet; thence S83°39'E, 5.00 feet; thence N06°21'E, 33.87 feet; thence N83°39'W, 5.00 feet; thence N06°21'E, 349.09 feet; thence N69°34'E, 104.36 feet; thence N82°20'E, 277.95 feet; thence N00°53'46"W, 29.02 feet; thence S82°20'W, 350.03 feet; thence on a curve to the left a length of 35.79 feet having a radius of 545.47 feet with a chord bearing of S66°15'17"W for a distance of 35.78 feet; thence S15°12'17"E, 23.89 feet; thence S17°09'45"W, 155.19 feet; thence S04°31'36"W, 247.07 feet; thence S00°54'03"W, 323.18 feet to the point of beginning containing 25,570.6 Square Feet, or 0.587 Acres and

A tract of land in Government Lot 6, in the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas, more particularly described as commencing at the northwest corner of said Section 29; thence S00°19'E, along the west line of said Northwest Quarter, 107.90 feet, to a point on the south line of the Chisholm Creek Diversion Condemnation Case A-39338, and for a point of beginning; thence N39°11'22"E, along the south line of said Chisholm Creek Diversion Condemnation Case A-39337, 46.17 feet; thence S01°01'41"W, 393.95 feet; thence continue S00°52'40"E, 868.87 feet; thence S89°47'W, 25.00 feet to a point on the west line of said Northwest Quarter; thence N00°19'W, along the west line of said Northwest Quarter, 1226.12 feet to the point of beginning, containing 35,010.6 Square Feet, or 0.804 Acres and

A portion of Government Lots 1 and 3 in the Northeast Quarter of the Northeast Quarter of Section 30, Township 26 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas, described as commencing at the Southeast corner of the Northeast Quarter of said Section 30; thence N01°01'49"W, along the East line of said Northeast Quarter, 200 feet, to the point of beginning; thence continue N01°01'49"W, 993.60 feet, to a point on the south line of floodway in Condemnation Case A-39338; thence S39°08'12"W, along the south line of said Condemnation Case A-39338, 12.15 feet; thence S00°40'54"E, 984.15 feet; thence N89°42'49"E, 13.83 feet to the point of beginning, containing 10,698.3 square feet, or 0.246 acres.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 27th day of, March 2012.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law